

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN FERDMAN,
Plaintiff,

- against -

ICONIX BRAND GROUP, INC.,
Defendant.

Docket No. 17-cv-04458

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Steven Ferdman (“Ferdman” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Iconix Brand Group, Inc. (“Iconix” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of seven (7) copyrighted photographs of musician John Legend owned and registered by Ferdman, a New York City-based photojournalist. Accordingly, Ferdman seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Ferdman is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 201 West 72nd Street, Apt. 18E, New York, New York 10023. Ferdman's photographs have appeared in many publications around the United States.

6. Upon information and belief, Iconix is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 1450 Broadway, 3rd Floor, New York, New York 10018. Upon information and belief, Iconix is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Iconix has owned and operated a website at the following URL: www.roc4life.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. On November 14, 2016, Ferdman photographed musician John Legend in concert (the "Photographs"). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Ferdman then licensed the Photographs through several photo agencies.

9. Ferdman is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs were registered with the U.S. Copyright Office and were given Copyright Registration Number VA 2-025-112.

B. Defendant's Infringing Activities

11. Upon information and belief, on or about November 15, 2016, Iconix ran an article on the Website entitled *ABOUT LAST NIGHT: JOHN LEGEND DEBUTS DARKNESS AND LIGHT AT SAMSUNG* 837. See /www.roc4life.com/2016/11/15/john-legend-darkness-and-light/. The article prominently featured the Photographs. A true and correct copy of the article is attached hereto as Exhibit B.

12. Iconix did not license the Photographs from Plaintiff for its article, nor did Iconix have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST ICONIX)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Iconix infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Iconix is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by Iconix have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Iconix be adjudged to have infringed upon Plaintiff's copyright in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 13, 2017

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